

## DEPARTMENT OF FINANCE BILL ANALYSIS

**AMENDMENT DATE:** 06/11/2012  
**POSITION:** Oppose  
**SPONSOR:** California State Controller

**BILL NUMBER:** AB 2638  
**AUTHOR:** Eng, Mike

### **BILL SUMMARY:** Tax Expenditure Report

This bill would require the Department of Finance (Finance), the Franchise Tax Board (FTB), and the Board of Equalization (BOE) to report additional tax expenditure information, as specified.

### **FISCAL SUMMARY**

This bill in itself would not impact revenues.

This bill could result in additional minor operating costs for Finance. This bill would affect the FTB's staffing needs. Additional operating costs would be identified and an appropriation request, if necessary, would be made by the FTB as this bill moves through the legislative process. The bill could also result in additional operating costs for the BOE.

### **COMMENTS**

#### **Finance is opposed to this bill for the following reasons:**

- In Executive Order B-14-11, the Administration notes that substantial efforts and costs are expended in preparing, tracking, and filing reports required by the Legislature, and that it is committed to identifying and eliminating administrative inefficiencies and reducing costs.
- Current state law already requires Finance to report to the Legislature detailed tax expenditure information every year.
- This bill could require Finance to divert staffing resources from preparing the Governor's Budget to meet the new reporting requirements.
- This measure would impact the FTBs' staffing needs and thus would result in additional operating costs for the FTB. The FTB's analysis for this bill indicates that additional operating costs would be identified and an appropriation request, if necessary, would be made as the bill moves through the legislative process.
- This bill would result in minor additional operating costs for the BOE, assuming the BOE would report only additional information which is currently available from tax returns, and for all other tax expenditures the BOE would estimate the revenue losses using independent sources. The BOE's staff analysis for this bill details administrative concerns regarding the availability of the required tax expenditure information from tax returns.

Analyst/Principal Ng	Date	Program Budget Manager Mark Hill	Date
Department Deputy Director		Date	
Governor's Office:	By:	Date:	Position Approved _____ Position Disapproved _____
BILL ANALYSIS			Form DF-43 (Rev 03/95 Buff)

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**ANALYSIS**

## 1. Programmatic Analysis

**Under state law**, the Department of Finance (Finance) has been required to provide a tax expenditure report to the Legislature since 1971. Chapter 1762, Statutes of 1971, required that a biennial report be submitted to the Legislature. Chapter 268, Statutes of 1984, increased the reporting frequency from once every two years to once a year. The current state law (i.e., Chapter 49, Statutes of 2006) requires the report be provided to the Legislature by September 15 of each year and include each of the following:

- A comprehensive list of tax expenditures exceeding \$5 million.
- The statutory authority for each provision.
- A description of the legislative intent of each tax expenditure, if specified in the enacting legislation.
- The sunset date of each provision.
- The beneficiaries of the provision.
- An estimate of the state and local revenue loss for the current and two subsequent fiscal years.
- For personal income tax expenditures, the number of taxpayers and returns affected for the most recent tax year.
- For corporation and sales tax expenditures, the number of returns or businesses affected for the most recent year for which data is available.
- A listing of any comparable federal benefit.
- A description of any tax expenditure evaluation or compilation of information completed by any state agency since the last tax expenditure report by Finance.

Chapter 49, Statutes of 2006 defines the tax expenditure as "a credit, deduction, exclusion, exemption, or any other tax benefit as provided for by the state."

Current state law also requires the Governor to submit to the Legislature within the first 10 days of each calendar year, a budget for the ensuing fiscal year.

**Department of Finance**

**This bill** would require Finance to include the following additional information in the annual tax expenditure report:

- The year of enactment for those tax expenditures exceeding \$5 million in annual cost.
- Anticipated revenue loss, if available, based on the final fiscal committee analysis of the act which established the tax expenditure.

This bill would also require Finance to include in the annual Governor's Budget an estimate of the revenue loss for each tax expenditure exceeding \$5 million in the upcoming fiscal year.

**Franchise Tax Board**

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**ANALYSIS** (continued)

**This bill** would require the FTB to submit a report to Finance and the Legislature within the first 10 days of each calendar year on the tax and fiscal effect of personal income tax expenditures and corporation income and franchise tax expenditures that exceed \$5 million dollars in the current and the two subsequent fiscal years. The report would be prepared using the most recent tax year that full year data is available, the current state fiscal year, and the budget year, in the following categories:

- By the adjusted gross income of the claimants.
- By the tax liability of the taxpayer.
- By region.
- By industry code.

For the most recent tax year that full year data, this bill would also require the FTB's report to include the following information:

- The average, median, highest, and lowest amounts claimed by taxpayer bracket.
- The amounts claimed and as of the time the report is prepared, amounts disallowed.

Where deemed appropriate by the FTB, the report would also include the following information about the expenditures:

- Any citations of academic studies pertaining to the tax expenditure or similar tax expenditures.
- The usage for the same or similar tax expenditures adopted by other states with similar economies, business entity types, and tax laws, or the federal government.
- Any distinguishing tax characteristic, including other tax expenditures claimed.

This bill would also require the FTB to provide sufficient data to support a subsequent analysis of the revenue loss of the tax expenditure.

**Board of Equalization**

**This bill** would require the BOE to submit by January 10 of each year a report to Finance and the Legislature on the tax and fiscal effect the revenue loss for sales and use tax that exceed \$5 million dollars as specified. To the extent allowed under federal law, the report would include the most recent data to characterize the economic, tax, and demographic profile of claimants, including, but not limited to, the following:

- An estimate for the state and local revenue loss for the current fiscal year and the two subsequent fiscal years including partial tax exemptions and all other tax expenditures when the BOE has obtained that information.
- If available, estimated revenue loss based on the final fiscal committee analysis of the act which established the tax expenditure, adjusted for inflation.
- For the most recent taxable year for which a full year of data is available, average, median, highest, and lowest amounts claimed, by taxpayer liability, amounts claimed and as of the time the report is prepared, amounts disallowed.

**BILL ANALYSIS--(CONTINUED)****Form DF-43****AUTHOR****AMENDMENT DATE****BILL NUMBER**

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**ANALYSIS** (continued)

- Where deemed appropriate by the BOE, citations of academic studies pertaining to the tax expenditure or similar tax expenditures.
- Usage data, where available, for the same or similar tax expenditures adopted by other states with similar economics, business entity types, and tax laws.
- Any other distinguishing tax characteristics, including, but not limited to, other tax expenditures claimed.

This bill would also require the BOE to provide sufficient data to support a subsequent analysis of the revenue loss of the tax expenditure.

**2. Fiscal Analysis**

This bill in itself would not impact revenues.

To the extent that this bill would require Finance to divert staffing resources from preparing the Governor's Budget to meet the new reporting requirements, it could result in additional minor operating costs for Finance.

The FTB's analysis of this measure indicates that this bill would impact the staffing needs at its Economic and Statistical Research Bureau. According to the FTB analysis, additional operating costs would be identified and an appropriation request, if necessary, would be made as the bill moves through the legislative process.

The BOE's draft analysis estimates that additional BOE's costs associated with this bill would be minor--assuming the BOE would report only additional information which is currently available from returns, and for all other tax expenditures the BOE would estimate the revenue losses using independent sources.

	SO	(Fiscal Impact by Fiscal Year)					
Code/Department	LA	(Dollars in Thousands)					
Agency or Revenue	CO	PROP					Fund
Type	RV	98	FC	2011-2012 FC	2012-2013 FC	2013-2014	Code
1147/Pers Inc Tax	RV	Yes		-----	No/Minor Fiscal Impact -----		0001
1104/Corp Tax	RV	Yes		-----	No/Minor Fiscal Impact -----		0001
1149/Sale Use Tax	RV	Yes		-----	No/Minor Fiscal Impact -----		0001
8860/Finance	SO	No		-----	See Fiscal Analysis -----		0001
0860/Equalization	SO	No		-----	See Fiscal Analysis -----		0001
1730/FTB	SO	No		-----	See Fiscal Analysis -----		0001